

**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 06/19/01  
AGENDA ITEM 5  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** Appeal of Planning Commission Approval of Variance No. 01-180-08 – Ahmed Hussain (Applicant/Owner) –The Property is Located at 27167 Fielding Drive

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached Resolution, find that the project is exempt from the requirements of the California Environmental Quality Act and deny the appeal, upholding the Planning Commission's action.

**DISCUSSION:**

In February 2001, a building permit was issued for an addition to the rear of a Fielding Drive home. The plans showed that a two-story addition would be located between 15 and 18 feet from the rear property line. Although a one-story addition may be as close as 10 feet, the second-story portion of an addition is required to be at least 20 feet from the rear property line, and this setback requirement was overlooked. Moreover, the plans were incorrectly prepared in that the addition actually comes as close as 10 feet to the rear property line, with a portion of the addition being 13 feet away. Once construction began, a neighbor to the rear brought the error to the attention of staff.

The Planning Commission, at its meeting of May 10, 2001, approved the variance (5 -2). The Commissioners supporting the variance acknowledged the City's error and found that the elevation difference between the lots justified the reduced setback. The dissenting votes came from Commissioners who supported the addition, but wanted to require additional architectural detail and landscaping to help the addition fit in with the surrounding homes.

The intent of the Zoning Ordinance in requiring second story additions to be at least 20 feet from the rear property line while allowing one story additions as close as 10 feet to the rear property line is to afford light, air and privacy to adjacent residents. However, in this case the

adjacent lot to the rear is at an elevation 6 feet higher than the subject property. Therefore, impacts would be similar to those of a single story addition in a typical subdivision that is not on a hillside.

The findings supporting the variance point to the special circumstance about the property, i.e., that the property on which the addition is located is significantly lower than the neighbor's lot to the rear. There are many other lots in this hillside subdivision that are terraced, resulting in homes on pads of different elevations. This site is unique, however, when viewed in relation to the intent of the RS zoning regulations. The setback requirements for rear yard additions are typically applied to flat lots found in most of the City's single-family subdivisions.

In addition to the elevation difference between lots, there is also a significant horizontal separation between the subject house and the neighbor's to the rear. The rear neighbor's house is 34 feet from the rear property line so that the two houses will be 44 feet apart. Typically, in a standard subdivision, each house (including two-story homes) would have a 20-foot rear setback so that two houses would be 40 feet apart.

In response to the notice mailed to all residents within 300 feet of the applicant's property, staff received one phone call, one e-mail and two letters, all in opposition to the variance. At the Planning Commission meeting the applicant submitted a petition (attached) with three signatures in support of the variance. The applicant's attorney indicated that the applicant acted in good faith and would be unfairly burdened if required to redesign and reconstruct the addition. The rear neighbor, the appellant, submitted a petition signed by 16 people opposing the variance (attached).

## **Appeal**

The appellant claims in his letters of May 18<sup>1</sup> and May 3, 2001 (see Exhibit C) that the addition is not attractive, that it encroaches into open space, that the variance would set a detrimental precedent, and that requisite findings cannot be made in support of the variance.


In staff's opinion, the addition is designed to match the original house as the roofline, colors and materials complement those of the existing dwelling. To provide for open space, the Zoning Ordinance allows lot coverage of up to 40 percent. For subject parcel, the open space requirement is met in that only 34 percent of the lot would be covered, leaving 66 percent in open space. Since each variance application must be considered on its own merits, staff does not believe that a detrimental precedent will be set.

The staff believes and the Planning Commission finds that the property in question does meet the required findings for a variance in that the height of the addition will not be appreciably higher, in relation to the rear neighbor, than a single story addition which would be permitted only 10 feet from the rear property line. Therefore, it is recommended that the City Council approve the variance for the proposed addition.


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<sup>1</sup> The last sentence of the May 18 letter incorrectly refers to a letter dated May 10. This should read "May 3".

Prepared by:

  
Erik J. Pearson, AICP  
Associate Planner

Recommended by:

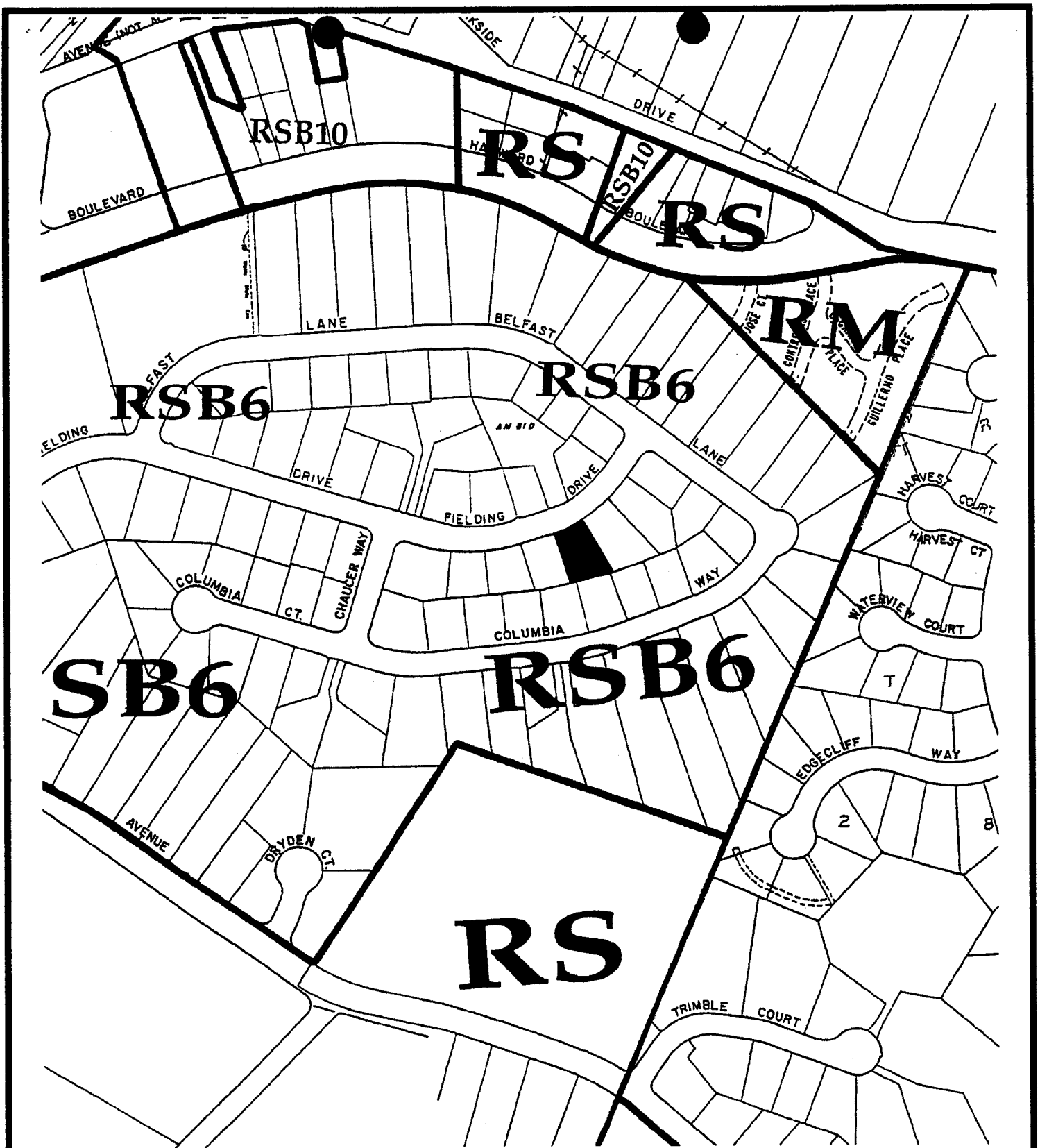
  
Sylvia Ehrenthal  
Director of Community and Economic Development

Approved by:

  
Jesús Armas, City Manager

Attachments:

- Exhibit A - Area/Zoning Map
- Exhibit B - Findings for Approval
- Exhibit C - Letter of Appeal dated May 18, 2001
- Exhibit D - Draft Planning Commission Meeting Minutes and Staff Report dated May 10, 2001
- Exhibit E - Information submitted by Ronald Peck to the Planning Commission on May 10, 2001
- Exhibit F - Petition submitted by Ruben Nino to the Planning Commission on May 10, 2001
- Exhibit G - Letter from Ruben Nino dated May 3, 2001
- Exhibit H - Letter from Mr. & Mrs. Burnham dated May 4, 2001
- Exhibit I - E-mail from Mahlon Gremillion dated April 27, 2001
- Draft Resolution
- Plans



**Area & Zoning Map**

VAR 01-180-08

Address: 27167 Fielding Drive

Applicant: Ahmed Hussain

Owner: Ahmed Hussain

**EXHIBIT A**



**VARIANCE APPLICATION NO. 01-180-08**

**Ahmed Hussain (Applicant/Owner)**

**27167 Fielding Drive**

**FINDINGS OF APPROVAL**

**Findings For Approval** – Request to construct a second story addition to a single family residence only 10 feet from the rear property line where a minimum of 20 feet is required.

- A. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*.
- B. There are special circumstances applicable to the property regarding this request in that the grade of the subject property is significantly lower than the property to the rear.
- C. Strict application of the Zoning Ordinance would deprive such property of privileges enjoyed by other properties in the vicinity under the same zoning classification.
- D. The variance would not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and the Single-Family Residential zone in which the property is situated in that other properties with similar circumstances would be granted the same consideration.

**EXHIBIT B**

Post-It® Fax Note	7671	Date	# of pages ▶
To	Angelina Reyes	From	RUBEN NIÑO
Co./Dept.		Co.	650-858-3420
Phone #		Phone #	650-727
Fax #	510-583-3636	Fax #	

27156 Columbia Wy.  
Hayward, Ca. 94542

MAY 18 PM 2:15 CLK

Angelina Reyes  
City Clerk  
City of Hayward  
777 "B" Street  
Hayward Ca. 94541

May 18, 2001  
Faxed and Mailed

Reference: Appeal of Variance approval for 27167 Fielding Drive

Dear Ms. Reyes

On May 10, 2001 the Planning Commission approved the referenced variance request and we are appealing the decision of the Planning Commission to the City Council. This appeal is based upon the information I submitted to the Planning Commission and as referenced in Sec. 10-3300 variance. The variance approval did not meet the purpose of granting a variance as referenced in Sec. 10-1.3305 as stated "the purpose of variance provisions is to authorize in specific cases departure from the terms of the Ordinance if not contrary to the public interest where, owing to special conditions, literal enforcement would result in unnecessary hardship". The petition that I submitted would conclude that the public interest is not being met. Secondly under Sec. 10-1.3325 Findings none of the findings are met which we referred to in our letter dated May 10, 2001 and the petition we submitted to the Planning Commission.

If you need any further information please give me a call at 510-727-1217.

Sincerely

  
Maria Niño

  
Ruben Niño

cc: Erik Pearson  
Associate Planner  
Fwd: 05/18/01 ml

TOTAL P.01

**EXHIBIT C**

Associate Planner Pearson said that initially, they did have more parking but that spaces had to be eliminated due to inadequate back-out space.

Chairperson Caveglia said Hayward is moving to an urban setting. And as such, at some point, the City has to say, "No" to more cars.

Commissioner Sacks **moved**, seconded by Commissioner Zermeno, the staff recommendation with the additional condition of approval that all dwelling units will meet the required front yard setback.

Commissioner Williams commented that having looked at the project site, he thought it was a tight site for this many units. He added that O'Neil is a tight street. He continued that staff has to look at whether we are meeting just the bare minimum standard. This site has too much mitigation with the trains, soundwalls, parking. He admitted that he had reservations about the traffic patterns within the complex.

Commissioner Sacks said she was happy to make the motion since this is another innovative way to look at housing solutions for Hayward. She appreciated that it was a condominium situation with Homeowner's Association, since Homeowner's Associations can generally take care of and prevent problems. She referenced her own living situation where there is no parking on the street. She noted that it could work if the people who live there want it to work.

Commissioner Thnay said he applauded the developer for preserving the trees and for the innovations in the architecture. He liked that they decided not to front the garages on the street. He commented that these homes are not going to be for families with many children. He added his optimism that the garages will go a long way toward alleviating parking problems. This is really a "Smart Growth" idea.

Commissioner Halliday commented that we are moving into being more urbanized and less suburbanized city. We cannot continue to plan around cars. She said she hoped the developer would look at this project carefully for additional convenience for pedestrians to encourage residents to ride a bike or walk to the area. This is more pedestrian friendly. She noted that we need to move more in this direction, and added that she would like to see a basketball hoop or something recreational in the common area to bring the residents out of their homes and together.

The motion passed 7:0.

2. **Variance No. 01-180-08 – Ahmed Hussain (Applicant/Owner):** Request to construct a second story addition to a single family residence only 10 feet from the rear property line where a minimum of 20 feet is required. The property is located at 27167 Fielding Drive, and is a part of the Hayward Highlands Neighborhood Plan Area in the Single-Family Residential District with a minimum lot size of 6,000 square feet (RSB6).

Associate Planner Pearson described the plans. He noted that the applicant had gone through the





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process of acquiring permits through the City. The neighbor called attention to the fact that the rear setback is closer to the property line than is legally allowed. He commented that staff could support the application because of the difference in elevations between the two neighbors. He described the approximate difference in elevation of about six feet. He showed pictures from various views of the addition from several neighbor's viewpoints. Staff recommended approval of the variance, subject to findings and conditions. He suggested conditioning for opaque glass on the addition to maintain privacy.

The public hearing opened at 8:55 p.m.

Ron Peck, 28580 Barn Rock Drive, attorney and friend of the applicant, spoke for the applicant. He maintained that the applicant submitted his plans in good faith to the City, which were approved. He noted that the site plan is a carry over from an older site plan in the City's files. He stated that the applicant acted in good faith based on the information and approval he received from the City. He maintained that the Commission had to balance the hardship to the applicant versus the aesthetics. He pointed out that a 10-foot setback is not as important when the rooflines are on such a different levels. He stated that the addition is so far along that to change it now would be an incredible burden on the applicant. They have estimates that the cost would increase the project from \$50,000 to \$60,000. He then asked for the Commission to adopt the staff recommendation.

Rubin Nino, 27156 Columbia Way, a neighbor, stated the purpose of granting a variance. He maintained that to approve this would be a departure of the terms of the variance. He said that all the findings are not met. There are no special circumstances. He submitted a petition signed by 16 neighbors throughout the neighborhood, which asks for denial of the application maintaining that it would set precedent. It would encroach into the rear open space design of the neighborhood, and does not meet the criteria for granting a variance. He noted that even after the applicant was notified of the hearing, there was a continuation of the work. He urged members to deny the variance request.

The public hearing closed at 9:09 p.m.

Chairperson Caveglia said the issue is very simple. The City made an error. We have to try to rectify it. He would support the recommendation that was made.

Commissioner Bogue said he disagreed. He visited the area and could see the addition from the street and the street above. He commented that it is a huge addition and makes a tremendous impact. He maintained that allowing the variance on this would change the character of the homes in the area. He wondered whether the same effect in living space could be achieved if the applicant would combine a smaller bedroom with the present master-bedroom. This would reopen the space. He moved to deny the variance. The motion died for lack of a second.

Commissioner Williams **moved**, seconded by Commissioner Zermeño, to grant the variance. He commented that it was in the spirit of the law. He noted that the applicant came to the City and got his approvals. Why penalize him when he did everything in good faith? These were the special circumstances. The applicant did have approval.

Commissioner Halliday said this was a tough decision. Although she could sympathize with the neighbors, she could not be a party to penalizing the applicant. This is not setting a precedent. This is acknowledging that the City made a mistake and we have to correct it. She commented that generally if someone builds something without a permit and then asks for approval, the Commission takes a hard line in denying it. This was just something that happened a while ago. With great reluctance, she would support the motion.

Commissioner Thnay said he would concur with Commissioner Halliday. People do make errors. If an error is made by the City, the burden is on the City. He did say the second story should be set back. He said he would like to add a friendly amendment that the windows be opaque. This was agreed to.

Commissioner Sacks said she would like to vote "No" on the whole thing since she cannot figure out who is responsible. There are faults enough to go around. She indicated that her tendency would be to vote against the motion. She questioned the neighbor who objected in waiting so long to comment.

Commissioner Zermeño said there should be room for a compromise as to the architectural design.

Commissioner Bogue asked to make a friendly amendment since this structure is so imposing, he would like more interesting architectural detail to be added to the building to enhance it. Staff should work with the applicant. He suggested also that more landscaping be required.

Commissioner Williams said he would not accept the amendment. This would merely add more expense.

Commissioner Bogue said he would then make this a substitute motion. Commissioner Halliday seconded it. He agreed to **move** the staff recommendation with his amendment.

Commissioner Zermeño commented that currently there is no landscaping and nothing to enhance the boxlike effect of the addition.

Associate Planner Pearson agreed that there was not a lot of detail on the plans.

Commissioner Halliday said she could support this as a compromise. It could be a nice thing to work with staff and the neighbors to mitigate the situation. She indicated that she was reluctant to support the original motion.

Commissioner Bogue added the addition of the opaque window to his motion. He explained that



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his proposal would mean the applicant would work with staff for more architectural details, and developing a landscaping plan. He suggested that the windows have relief, something to change the appearance of the wall.

At the request of the applicant and Commissioner Halliday, the public hearing was reopened at 9:31 p.m.

Ron Peck explained that the applicant's intent is to have the same design around the house itself. He said the applicant had asked the neighbor whether there might not be a compromise that could be reached between them on the addition. He was told, "No." He also noted that this structure is almost 20 years old so much of the landscaping has been in place for a number of years.

Commissioner Sacks said in looking at the photographs, there is a nearby house, which is plain stucco, with no trim around windows. There is no difference between the applicant's proposal and this structure.

At the request of Commissioner Zermeño, Rubin Nino was also given a chance to speak further on his concerns.

Mr. Nino said he did not see the design originally. He explained that he had no idea of the size of the structure initially, which is why he did nothing to complain, although, he added, the frame was a concern. He said he had a number of other concerns.

Commissioner Bogue mentioned once again that on the drawings from the applicant there is no detail.

Chairperson Caveglia stated again that the point was the applicant was issued a permit to do this.

The motion **failed** by the following vote:

AYES:	COMMISSIONERS Bogue, Thnay, Halliday
NOES:	COMMISSIONER Zermeño, Williams, Sacks
	CHAIRPERSON Caveglia
ABSENT:	None
ABSTAIN:	None

Chairperson Caveglia then called for a vote on the original motion, in which Commissioner Sacks **moved**, seconded by Commissioner Zermeño, the staff recommendation with the additional condition of approval that opaque windows be used on the rear side of the upper floor.

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The motion **carried** by the following vote:

AYES: COMMISSIONERS Halliday, Fish, Sacks,  
Williams, Zermeno  
CHAIRPERSON Caveglia  
NOES: COMMISSIONER Bogue, Thnay  
ABSENT: None  
ABSTAIN: None

### **ADDITIONAL MATTERS**

#### **3. Oral Report on Planning and Zoning Matters**

Planning Manager Anderly announced that there would be another meeting on May 31<sup>st</sup>

#### **4. Commissioners' Announcements, Referrals**

Commissioner Bogue described a change in the left turn lanes at the north end of Calaroga. Historically, the right turn lane alone goes right. Recently, the two left turn lanes were changed to a left turn, and the middle lane is now a left or right. This is confusing for many people. He suggested changing the turn lanes back into one right only and a double left, as it has been.

Commissioner Halliday clarified that there will be two more meetings in May, on the 24<sup>th</sup> and 31<sup>th</sup>. She was told this would be the case.

### **MINUTES**

- April 26, 2001 - APPROVED

### **ADJOURNMENT**

The meeting was adjourned by Chairperson Caveglia at 9:42 p.m.

**APPROVED:**

\_\_\_\_\_  
Ed Bogue, Secretary  
Planning Commission

**ATTEST:**

\_\_\_\_\_  
Edith Looney  
Commission Secretary



## CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 05/10/01

Agenda Item 2

**TO:** Planning Commission

**FROM:** Erik J. Pearson, Associate Planner

**SUBJECT:** Variance No. 01-180-08 – Ahmed Hussain (Applicant/Owner): Request to construct a second story addition to a single family residence only 10 feet from the rear property line where a minimum of 20 feet is required. The property is located at 27167 Fielding Drive, and is a part of the Hayward Highlands Neighborhood Plan area in the Single-Family Residential District with a minimum lot size of 6,000 square feet (RSB6).

### RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*; and
2. Approve the variance, subject to the attached findings and conditions of approval.

### BACKGROUND:

The property is located within a single-family subdivision of similar homes. The parcel is 104 feet deep and has a width of 60 feet measured at the rear property line. The parcel is developed with a 2,447 square foot, two-story single-family residence built in 1987. The residence is approximately 40 feet from the rear property line. The applicant is requesting a 1,060-square-foot expansion of their home to add a theater room on the first floor and a master bedroom suite on the second floor to accommodate a growing family.

The addition was submitted on plans showing both the first and second stories setback 15 feet from the rear property line. The standard rear yard setback for the RS district is 20 feet. The RS regulations allow a single story addition to be within 10 feet of a rear property line, however, the second floor must meet the regular 20-foot setback. The plans were erroneously approved by staff and the project is now partially constructed. The project was halted after the error was brought to the City's attention by the neighbor to the rear who feels that the addition is too close to the rear property line. To compound the matter, the builder/designer has since discovered that the plans were incorrect and that the addition is actually 10 feet, 6 inches from the rear property line, rather than the 15 feet shown on the plans.

The intent of allowing single story additions as close as 10 feet to the rear property line, but not the second is to afford light, air and privacy to neighboring properties. In this instance, the grade of the subject property is 6 feet lower than the level of the property to the rear. Therefore, the special circumstances that apply to the property are that the second story addition will not appear significantly higher than a single-story addition associated with a more typical lot. The peak of the roof over the addition is approximately 23 feet above grade, or 17 feet above the grade of the rear neighbor's property. A single-story addition with a height of 17 feet would typically be permitted within 10 feet of a rear property line in the RS zone.

If the variance is denied, the applicant can either appeal the denial to the City Council or revise the plans to reduce the depth of the second story by 9 feet, 6 inches. This would reduce the master suite from 630 square feet to 468 square feet.

#### **ENVIRONMENTAL REVIEW:**


The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*.

#### **PUBLIC NOTICE:**


On April 24, 2001, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records, the Hayward Highlands Neighborhood Plan Task Force members and the Hayward Area Planning Association. The Referral Notice provided an opportunity for persons to comment on the project. One telephone inquiry and one e-mail (attached) were received. Both parties opposed the approval of the variance.

On April 30, 2001, a Notice of Public Hearing for the Planning Commission meeting was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to Hayward Highlands Neighborhood Plan Task Force members and the Hayward Area Planning Association.

*Prepared by:*

  
\_\_\_\_\_  
Erik J. Pearson, AICP  
Associate Planner

*Recommended by:*

  
\_\_\_\_\_  
Dyana Anderly, AICP  
Planning Manager

Attachments:

- A. Area Map
- B. Findings
- C. E-mail from Mahlon Gremillion
- D. Plans

BART J. SCHENONE  
RONALD G. PECK

LAW OFFICES OF  
SCHENONE & PECK

1260 B Street, Suite 350  
Hayward, California 94541  
TEL: (510) 581-6611  
FAX: (510) 581-6174

AGENDA ITEM #2

Hussain Variance

EXHIBIT E



# CITY OF HAYWARD



ARCHITECTURAL	<u>SOM</u>
STRUCTURAL	<u>SOM</u>
PUBLIC WORKS	<u>N/A</u>
WATER	<u>N/A</u>
WPSC	<u>N/A</u>
SOLID WASTE	<u>N/A</u>
PLANNING	<u>ERIK P.</u>
ENGINEERING	<u>N/A</u>
LANDSCAPE	<u>N/A</u>

FINAL APPROVAL

AG 2/15/01

Electrical, Mechanical &  
Plumbing plans not check

ADDITIONAL PERMITS  
ARE REQUIRED FOR

Electrical

Mechanical

Plumbing

if applies

APPROVED  
For compliance with  
Building Code.  
Do not cover any work  
inspected and pass  
NOT authorized to  
other regulations.

Contractors shall provide fire protection and extinguishing equipment on the job site during construction as prescribed by the Hayward Fire Prevention Division.

**Reviewed by:**

**Date:**

(2)  $7\frac{1}{2}$  STUCCO

**ATTACHED FOR DEPARTMENT COMMENT**

NAD.

### RIGHT SIDE ELEVATION

SCALE 1/4" = 1'-0"

BT4

[illegible]

Room 201  
Mr. Ahmed S. Iqbal  
2767 Field St.  
Flaxwood, Calif. 92319  
(510) 581-6938



# Petition

(Petition for the issue of a Variance from the City of Hayward)

Ahmed Hussain  
27167 Fielding Drive  
Hayward, Ca. 94542

Recently we received a building permit #00-00003962 to construct a two-story addition currently under construction.

The City of Hayward stopped our construction due to a City Planning error relating to the back yard setback.

The City has asked us to apply for a variance thru the Administrative/Planning Commission for approval to continue work.

Due to the City Planning admitted error, this situation is causing extreme hardship to my family. We humbly request your support and understanding in this matter.

Please fill out the fields below so that we may submit this petition to the City of Hayward for an early approval to complete the construction.

Date: 4.10.01  
Signature: [Signature]  
Print Name: JOEL SMITH  
Address: 27149 FIELDING DR. HAYWARD, CA. 94542  
Phone Number: 510 582-3316

Date: 4/10/01  
Signature: [Signature]  
Print Name: DARRELL THORNHILL  
Address: 27175 FIELDING DR HAYWARD, CA 94542  
Phone Number: 510-889-0826

Date: 4-16-91

Signature: [Signature]

Print Name: DAVID MOSHER

Address: 27164 Columbia Way

Phone Number: 510-886-8880

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

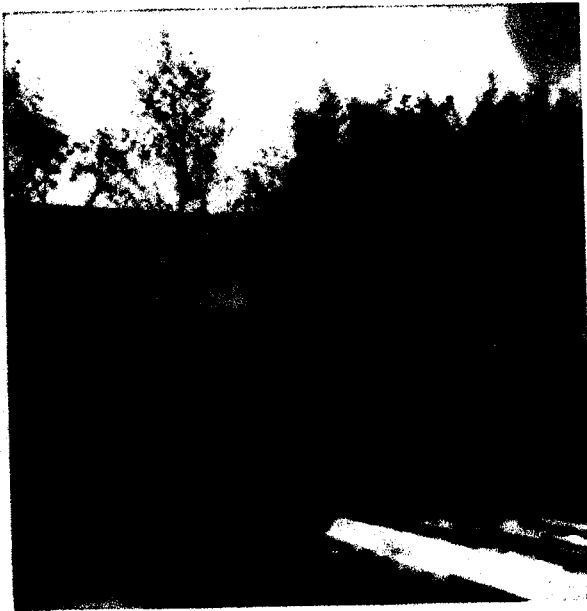
Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

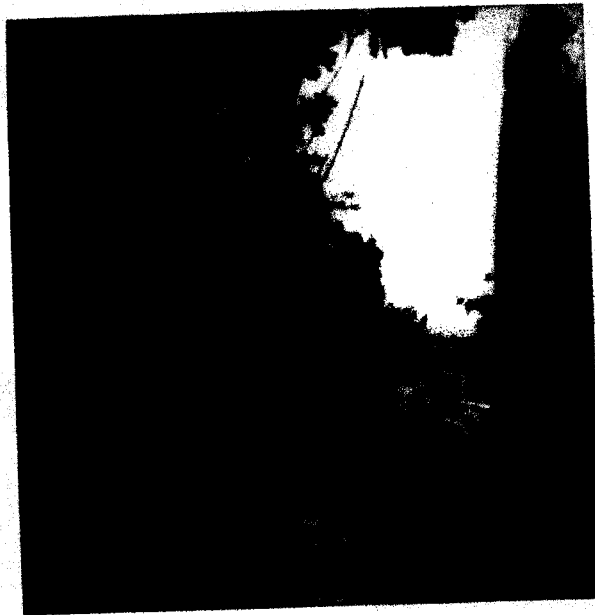
Phone Number: \_\_\_\_\_



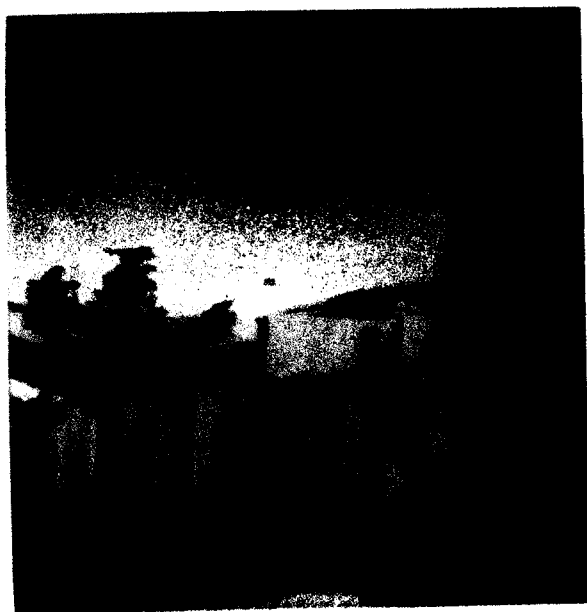
27167 ⇒ "G"



27167 ⇒ "J"



27167 ⇒ "K"



#27156 ⇒ "A"



27167 ⇒ "B"



27167 ⇒ "E"



27167 ⇒ "F"

Post-It® Fax Note 7671

To <u>EARL</u>	From <u>RUBEN</u>
Co./Dept.	Co.
Phone #	Phone # <u>850-858-3420</u>
Fax # <u>510-583-3649</u>	Fax #

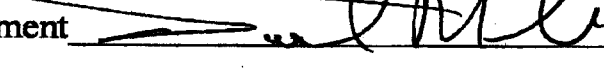
# Petition

We the undersign request the variance request for 27167 Fielding Drive be denied for the following reasons:

1. The addition will set a precedent for other houses to exceed existing setbacks.
2. The addition encroaches into the rear open space design of the neighborhood.
3. The design of the addition does not blend into the existing house.
4. The applicant does not meet the criteria for granting a variance in that there is not a unique circumstance in that all the house in the neighborhood have grade differences between them.

Respectfully submitted

Name DADE MOSHIRI Address 27164 Columbia Date 5-6-01

Comment  : reconsidered, after re-looking over all the issue -

Name Dianna Mashiri Address 27164 Columbia Date 5-6-01

Comment Dianna Mashiri

Name Anthony STAFFORD Address 27148 Columbia Date 5-6-2001

Comment Too Close

Name GLORIA STAFFORD Address 27148 Columbia Date 5-6-2001

Comment (SAME AS ABOVE)

EXHIBIT F



# Petition

We the undersign request the variance request for 27167 Fielding Drive be denied for the following reasons:

1. The addition will set a precedent for other houses to exceed existing setbacks.
2. The addition encroaches into the rear open space design of the neighborhood.
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4. The applicant does not meet the criteria for granting a variance in that there is not a unique circumstance in that all the house in the neighborhood have grade differences between them.

Respectfully submitted

Name ARNOLD LEE Address 27136 COLUMBIA WAY Date 5/6/01

Comment TOO CLOSE

Name FAYE LEE Address 27136 COLUMBIA WAY Date 5/6/01

Comment TOO CLOSE

Name STEPHEN VOYNE Address 27120 COLUMBIA WAY Date 5/6/01

Comment IMPOSES ON OTHERS SPACE & PRIVACY

Name Kelly Voyne-Corman Address 27120 Columbia Way Date 5/6/01

Comment Same as above -

# Petition

We the undersign request the variance request for 27167 Fielding Drive be denied for the following reasons:

1. The addition will set a precedent for other houses to exceed existing setbacks.
2. The addition encroaches into the rear open space design of the neighborhood.
3. The design of the addition does not blend into the existing house.
4. The applicant does not meet the criteria for granting a variance in that there is not a unique circumstance in that all the house in the neighborhood have grade differences between them.

Respectfully submitted

Name Jeanne Lycett Address 27105 Fielding Dr Date 5/6/01

Comment imposes on others space + privacy.

Name Ernest Irish Address 27123 Fielding Dr Date 5/6/01  
Ernest Irish

Comment \_\_\_\_\_

Name DARRELL THORNHILL Address 27175 FIELDING Date 5-6-01

Comment IMPOSES ON OTHERS SPACE

Name Jeanne Hader Address 27191 Fielding Dr. Date 5-6-01

Comment No privacy

# Petition

We the undersign request the variance request for 27167 Fielding Drive be denied for the following reasons:

1. The addition will set a precedent for other houses to exceed existing setbacks.
2. The addition encroaches into the rear open space design of the neighborhood.
3. The design of the addition does not blend into the existing house.
4. The applicant does not meet the criteria for granting a variance in that there is not a unique circumstance in that all the house in the neighborhood have grade differences between them.

Respectfully submitted

Name Sally Martin Address 27167 Belfast Date 5-6-2001

Comment to close

Name ALFRED J Morley Address 27196 Columbia Date 5-6-01  
Way

Comment Privacy,

Name Guy MORLEY Address 27191 Columbia Date 5/6/01  
Way

Comment PRIVACY, Blocker Views —

Name Keith TURNER Address 27195 Columbia Date 5-6-01  
Way

Comment Setting precedents for more encroachments

Comment

Name Raúl Dulan Address 27172 Columbia Date 5-6-01  
Comment I LEAVE SETBACK AS IS

Name Darrell Wilcox Address 27159 Columbia Way Date 5/6/01  
Comment This will set a precedent.

Name Elaine Wilcox Address 27159 Columbia Way Date 5/6/01  
Comment Lack of privacy - Views (JFK)

Name John M Address 27156 Columbia Way Date 5/6/01  
Comment see above

Name Maria Turner Address 27156 Columbia Way Date 5/6/01  
Comment see above

Name José Alfonso Rojas Address 27151 Columbia Date 5/7/01  
Comment will set precedent.

Name Rosemarie S. Rojas Address 27151 Columbia Way Date 5/7/01  
Comment as per reasons outlined in this petition

Name David Rojas Address 27151 Columbia Way Date 5/7/01  
Comment see above

Name \_\_\_\_\_ Address \_\_\_\_\_ Date \_\_\_\_\_  
Comment \_\_\_\_\_

RECEIVED

MAY - 7 2001

PLANNING DIVISION

Ruben & Maria Nino  
27156 Columbia Way  
Hayward, Ca. 94542  
510-727-1217

May 3, 2001

Faxed and Mailed

Erik J. Pearson, AICP  
Associate Planner  
Planning Division  
777 "B" Street  
Hayward, California 94541

Reference Var 01-180-08/27167 Fielding Drive

Dear Mr. Pearson

We are in receipt of the referenced variance request for the two-story addition, which is located to the rear of our house at 27156 Columbia Way. We request that the variance not be granted for the following reasons:

1. The proposed addition does not fit into the neighborhood and looks like an addition. The design does not blend the addition into the existing house and only looked at maximizing the interior space. The applicant previously added a room to the second story, which blended the new roof addition and exterior design into the existing house.
2. The reason we moved into this neighborhood is due to the large setbacks and open space design of each house and the relationship of each lot to one another. The design of the houses in this neighborhood mixed the single story and two-story house to achieve the maximum open space in the neighborhood. This was further achieved by the grading of the lots both to the side and rear of each lot with 2/1 slopes that separated the lots by different elevations. The lots are enhanced by the side and rear open slatted four foot fences that give a openness feeling. These features create an openness feeling that makes each yard feel bigger then they actually are. **The proposed addition to the rear of our house breaks up this openness feeling and encroaches into the open space design of this neighborhood.** From the rear of our yard you see this massive vertical wall with no design features that is approximately 20 feet by 30 feet wide that varies from 10 to 14 feet within the rear of our backyard fence.

.....

EXHIBIT G

**RECEIVED**

MAY - 7 2001

PLANNING DIVISION

May 4, 2001

Planning Division  
777 "B" Street  
Hayward CA 94541

Reference: VAR 01-180-08 Ahmed Hussain (Applicant/Owner)

We oppose allowing for a Variance and believe a 20-foot setback that is now required is in the best interests of this neighborhood.

This addition does not effect us directly. However it could well change the view or privacy of others closer to them. Also, this could lead to someone eventually building up and out that would hurt us.

We believe the laws, as they are to be quite liberal and hope that you will vote to keep them intact.

Thank you,



Mr. & Mrs. Ray L. Burnham  
27172 Columbia Way  
Hayward CA 94542

**EXHIBIT H**

**From:** <MAHLONWG@aol.com>  
**To:** COHD.CED(ErikP)  
**Date:** Fri, Apr 27, 2001 10:24 AM  
**Subject:** VAR 01-180-08

Mr. Pearson:

The note was mailed on 24 April, 01 and at that time the roof on the second floor was already partly in place.

It is hard to comment only on this project. This addition does not affect me but I am sure that it affects the neighbor next the house with the addition. He (the neighbor next to the addition) is also restricting my view.

I am restricted to keeping trees, etc. to a maximum height of 15 feet tall in my yard due to restrictions caused by a resident above me that isn't even in our neighborhood. The restriction was set when my house was built.

My view is now being restricted by tall trees on the property of the house next door and just above the house with the addition. He is probably concerned with his view but is not concerned with views by others above him because the restrictions made when these houses were being built was not thought out for the concern of all rather than a few.

So much for city planning.

Regards,

Mahlon Gremillion

**EXHIBIT I**

HAYWARD CITY COUNCIL

me 6/14/01

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION DENYING APPEAL AND UPHOLDING  
PLANNING COMMISSION APPROVAL OF VARIANCE  
APPLICATION NO. 01-180-08 - AHMED HUSSAIN  
(APPLICANT/OWNER) RE PROPERTY LOCATED AT  
27167 FIELDING DRIVE

WHEREAS, Variance Application No. 01-180-08 of Ahmed Hussain (Applicant/owner) concerns a request for a variance of the setback requirement for a two-story addition to a home located at 27167 Fielding Drive (the "Property"); and

WHEREAS, in February 2001, a building permit was issued based on plans submitted for a two-story addition to the Property, the second story of which would be located between 15 and 18 feet from the rear property line where a 20 foot-setback from the rear property line is required; and

WHEREAS, on May 10, 2001, the Planning Commission recommended approval of Variance Application No. 00-180-08 based in part on special circumstances relative to the topography of the property; and

WHEREAS, the matter was appealed to the City Council within the time and manner provided by law; and

WHEREAS, the City Council hereby finds and determines that:

- (1) The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*.
- (2) There are special circumstances applicable to the property regarding this request in that the Property is 6 feet lower than the adjoining property to the rear. The intent of the Zoning Ordinance in requiring second story additions to be at least 20 feet from the rear property line, while permitting one story additions to be as close as 10 feet to the rear property line, is to afford light, air and privacy to adjacent residents. Because of the hillside configuration of the two properties, the reduced second story setback is similar in effect to a 10-foot first story setback for flat lots elsewhere in the City. The variance will not compromise the light, air and privacy of the neighboring property to the rear. In addition, there is a significant horizontal separation between the Property and the



neighbor's property to the rear. The separation between the two properties is 44 feet with the addition, while, in a standard subdivision, the 20-foot setback ensures that the two houses would be 40 feet apart.

- (3) Strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties under the same zoning classification in that properties in the flat areas of the City can build first floor additions 10 feet for the rear property line without compromising light, air and privacy.
- (4) The variance would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and the Single-Family Residential zone in which the property is situated in that other properties with similar circumstances would be granted the same consideration.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that based on the foregoing findings, the appeal is denied and the decision of the Planning Commission approving Variance Application No. 00-180-08 is hereby upheld.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward